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**Board of Vocational Nursing
and Psychiatric Technicians**

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**BEFORE THE
BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2005-908

DANIEL LEE JACKSON
3408 Spring Street, Apt 201A
Paso Robles, CA 93446

ACCUSATION

Vocational Nurse License No. VN 211428

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Bureau of Vocational Nursing and Psychiatric Technicians ("Bureau"), Department of Consumer Affairs.
2. On or about October 8, 2004, the Bureau (formerly the Board of Vocational Nursing and Psychiatric Technicians) issued Vocational Nurse License No. VN 211428 to Daniel Lee Jackson ("Respondent"). The Vocational Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2010, unless renewed.

JURISDICTION

3. This Accusation is brought before the Bureau, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless

1 otherwise indicated.

2 4. Code section 101.1, subdivision (b), states:

3 "(1) In the event that any board, as defined in Section 477, becomes inoperative or
4 is repealed in accordance with the act that added this section, or by subsequent acts, the
5 Department of Consumer Affairs shall succeed to and is vested with all the duties, powers,
6 purposes, responsibilities and jurisdiction not otherwise repealed or made inoperative of that
7 board and its executive officer.

8 (2) Any provision of existing law that provides for the appointment of board
9 members and specifies the qualifications and tenure of board members shall not be implemented
10 and shall have no force or effect while that board is inoperative or repealed. Every reference to
11 the inoperative or repealed board, as defined in Section 477, shall be deemed to be a reference to
12 the department."

13 5. Code section 150 states: "The department is under the control of a civil
14 executive officer who is known as the Director of Consumer Affairs."

15 6. Code section 477 states:

16 "As used in this division:

17 (a) "Board" includes "bureau," "commission," "committee," "department,"
18 "division," "examining committee," "program," and "agency."

19 (b) "License" includes certificate, registration or other means to engage in a
20 business or profession regulated by this code."

21 STATUTORY PROVISIONS

22 7. Section 2875 of the Business and Professions Code provides, in pertinent
23 part, that the Bureau may discipline the holder of a vocational nurse license for any reason
24 provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

25 8. Section 118(b) of the Code provides, in pertinent part, that the expiration
26 of a license shall not deprive the Bureau of jurisdiction to proceed with a disciplinary action
27 during the period within which the license may be renewed, restored, reissued or reinstated.
28 Under section 2892.1 of the Code, the Bureau may renew an expired license at any time within

1 four years after the expiration.

2 9. Section 2878 of the Code states:

3 "The Board may suspend or revoke a license issued under this chapter [the
4 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

5 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

6

7 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or
8 abetting the violating of, or conspiring to violate any provision or term of this chapter.

9

10 "(f) Conviction of a crime substantially related to the qualifications, functions,
11 and duties of a licensed vocational nurse, in which event the record of the conviction shall be
12 conclusive evidence of the conviction."

13 10. Section 2878.5 of the Code states:

14 "In addition to other acts constituting unprofessional conduct within the meaning
15 of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person
16 licensed under this chapter to do any of the following:

17

18 "(b) Use any controlled substance as defined in Division 10 of the Health and
19 Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an
20 extent or in a manner dangerous or injurious to himself or herself, any other person, or the public,
21 or to the extent that the use impairs his or her ability to conduct with safety to the public the
22 practice authorized by his or her license."

23 11. Section 490 of the Code provides, in pertinent part, that the Bureau may
24 suspend or revoke a license when it finds that the licensee has been convicted of a crime
25 substantially related to the qualifications, functions or duties of a licensed vocational nurse.

26 12. California Code of Regulations, title 16, section 2521 states:

27 "For the purposes of denial, suspension, or revocation of a license pursuant to
28 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or

1 act shall be considered to be substantially related to the qualifications, functions or duties of a
2 licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a
3 licensed vocational nurse to perform the functions authorized by his license in a manner
4 consistent with the public health, safety, or welfare."

5 13. Section 125.3 of the Code provides, in pertinent part, that the Bureau may
6 request the administrative law judge to direct a licentiate found to have committed a violation or
7 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
8 and enforcement of the case.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Conviction of Substantially Related Crimes)**

11 14. Respondent is subject to disciplinary action under section 2878,
12 subdivision (f) and 490 of the Code, as defined in California Code of Regulations, title 16,
13 section 2521, in that Respondent has been convicted of crimes substantially related to the
14 qualifications, functions or duties of a licensed vocational nurse, as follows:

15 a. On or about September 1, 2006, Respondent was convicted by the Court
16 on a plea of nolo contendere for violating one count of Penal Code section 243, subdivision
17 (e)(1), a misdemeanor (battery), in the Superior Court of California, County of San Luis Obispo,
18 Paso Robles Judicial District, Case No. M389374, entitled *The People of the State of California*
19 *v. Daniel Lee Jackson*.

20 b. The circumstances surrounding the conviction are that on or about May
21 27, 2006, Respondent willfully and unlawfully slapped Gerry C. and forced her to the floor
22 because she called him an alcoholic.

23 c. On or about May 19, 2006, Respondent was convicted by the Court on a
24 plea of nolo contendere for violating one count of Vehicle Code section 23109, subdivision (c), a
25 misdemeanor (engaging in a motor vehicle exhibition of speed on a highway), in the Superior
26 Court of California, County of San Luis Obispo, Paso Robles Judicial District, Case
27 No. M380898, entitled *The People of the State of California v. Daniel Lee Jackson*.

28 d. The circumstances surrounding the conviction are that on or about

1 November 7, 2005, Respondent was arrested after a California Highway Patrol officer observed
2 Respondent's vehicle severely weaving and passing another vehicle on the right shoulder of a
3 highway near Paso Robles, California.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Dangerous Use of Alcohol)**

6 15. Respondent is subject to disciplinary action under section 2878,
7 subdivision (a) as defined in section 2878.5, subdivision (b) in that Respondent committed acts
8 which constitute unprofessional conduct as follows:

9 16. On or about November 7, 2005, Respondent was arrested by the California
10 Highway Patrol near Paso Robles, California, for a violation of Vehicle Code section 23152,
11 subdivision (a) (driving under the influence of alcohol or drugs) after an officer observed
12 Respondent's vehicle severely weaving and passing another vehicle on the right shoulder of a
13 highway. Respondent admitted to having consumed five beers.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct)**

16 17. Respondent is subject to disciplinary action under section 2878,
17 subdivision (a) and (d), in that Respondent committed acts which constitute unprofessional
18 conduct for the reasons stated in paragraphs 14, 15, and 16 above.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein
21 alleged, and that following the hearing, the Bureau issue a decision:

22 1. Revoking or suspending Vocational Nurse License Number VN 211428,
23 issued to Daniel Lee Jackson;

24 2. Ordering Daniel Lee Jackson to pay the Bureau the reasonable costs of the
25 investigation and enforcement of this case, pursuant to Business and Professions Code section
26 125.3;

27 ///

28 ///

3. Taking such other and further action as deemed necessary and proper.

DATED: November 12, 2008



TERESA BELLO-JONES, J.D., M.S.N., R.N.

Executive Officer

Bureau of Vocational Nursing and Psychiatric Technicians

State of California

Complainant

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